HIGH COURT OF UTTARANCHAL AT NAINITAL
Criminal Misc. Application No. 853 of 2001
{Old No. 3167 / 1997}

Satish Chandra Bhatt
S/o Sri N.D. Bhatt
R/o Village Khadri
P.O. Shyampur,
District Dehradun

……..Applicant

Versus

1.The State of Uttaranchal
2.Smt. Indu Bala
W/o Sri Satish Chandra Bahtt
R/o 86/6 Veer Bhadra Marg
Rishikesh

……..Respondents

Hon'ble J.C.S. Rawat, J.

Heard Sri Lokesh Pachoriya and Sri Tumul Nailwal learned counsel for the applicant and Sri G.S. Sandhu learned A.G.A. None appeared for the respondent No.2-Indu Bala, despite service.

The petition under section 482 Cr. P.C. was filed for quashing the orders dated 1.3.1995 and 6.3.1997 passed by he Munsif Magistrate, Risikesh and Addl. Sessions Judge, Dehradun respectively.

It is admitted that that the marriage was solemnized between the applicant and Smt. Indu Bala on 09.12.1986 according to Hindu rites and customs. It is not in dispute that the parties are living separately and their relations are strained. The respondent No.2-Smt. Indu Bala moved an application under section 24 of the Hindu Marriage Act in the court of Civil Judge, Dehradun and the same was allowed vide order dated 12.12.1991 whereby a sum of Rs.300/- per month was awarded to her as maintenance allowance. It has been alleged that the applicant-husband is regularly paying Rs.300/- per month as directed by the order dated 12.12.1991. Thereafter, on 13.5.1993 the respondent

No.2 Smt. Indu Bala moved another application under section 125 Cr. P.C. in the court of Munsif Magistrate, Rishikesh, District Dehradun. The said application was contested on the ground that the applicant-husband is unable to pay the maintenance. After appreciating the evidence on record, the learned Magistrate allowed the application under section 125 Cr. P.C. and awarded a sum of Rs.300/- per month to the respondent No.2-wife as maintenance in addition to Rs.300/- per month as maintenance under section 24 of the Hindu Marriage Act. Feeling aggrieved, the applicant preferred a revision before the Addl. Sessions Jude and the same was dismissed vide order dated 6.3.1997. Feeling aggrieved, the present petition was filed.

The learned counsel for the applicant contended that on 12.12.1991 a sum of Rs.300/- per month was awarded by the Civil Judge, Dehradun to the respondent No.2- wife as maintenance under section 24 of the Hindu Marriage Act, but the same amount has not been considered by the Munsif Magistrate, Risikesh while fixing the maintenance under section 125 Cr.P.C. The learned A.G.A. refuted the contention and contended that the learned Magistrate has also held that the applicant has neglected to maintain his wife. While fixing the maintenance, the learned court below has considered that the applicant was also paying a sum of Rs.300/- per month to respondent No.2-Smt. Indu Bala as maintenance under section 24 of the Hindu Marriage Act. The learned court below has also held that a sum of Rs.600/- per month as maintenance is just and proper.

It is an admitted case that the applicant-husband is an able-bodied person. There is no evidence on record that the applicant is handicapped person. The applicant

has neglected to maintain her wife and the respondent-wife is not able to maintain herself. Applicant has sufficient means to pay the maintenance to the respondent-wife. As such, the respondent-wife is entitled to get the interim maintenance from her husband-applicant.

In view of the above, I am in completely agreement with the findings given by the court below.

The petition devoids of merit and is dismissed accordingly.

(J.C.S. Rawat, J.)

Dated 29.07.2005
LSR